

§ 155.270

(2) Collect, use or disclose personally identifiable information gathered directly from applicants, qualified individuals, or enrollees while that individual or entity is performing the functions outlined in the agreement with the Exchange.

(c) *Workforce compliance.* The Exchange must ensure its workforce complies with the policies and procedures developed and implemented by the Exchange to comply with this section.

(d) *Written policies and procedures.* Policies and procedures regarding the creation collection, use, and disclosure of personally identifiable information must, at minimum:

(1) Be in writing, and available to the Secretary of HHS upon request; and

(2) Identify applicable law governing collection, use, and disclosure of personally identifiable information.

(e) *Data sharing.* Data matching and sharing arrangements that facilitate the sharing of personally identifiable information between the Exchange and agencies administering Medicaid, CHIP or the BHP for the exchange of eligibility information must:

(1) Meet any applicable requirements described in this section;

(2) Meet any applicable requirements described in section 1413(c)(1) and (c)(2) of the Affordable Care Act;

(3) Be equal to or more stringent than the requirements for Medicaid programs under section 1942 of the Act; and

(4) For those matching agreements that meet the definition of “matching program” under 5 U.S.C. 552a(a)(8), comply with 5 U.S.C. 552a(o).

(f) *Compliance with the Code.* Return information, as defined in section 6103(b)(2) of the Code, must be kept confidential and disclosed, used, and maintained only in accordance with section 6103 of the Code.

(g) *Improper use and disclosure of information.* Any person who knowingly and willfully uses or discloses information in violation of section 1411(g) of the Affordable Care Act will be subject to a civil penalty of not more than \$25,000 per person or entity, per use or disclosure, in addition to other penalties that may be prescribed by law.

[77 FR 18444, Mar. 27, 2012, as amended at 77 FR 31515, May 29, 2012]

45 CFR Subtitle A (10–1–12 Edition)

§ 155.270 Use of standards and protocols for electronic transactions.

(a) *HIPAA administrative simplification.* To the extent that the Exchange performs electronic transactions with a covered entity, the Exchange must use standards, implementation specifications, operating rules, and code sets adopted by the Secretary in 45 CFR parts 160 and 162.

(b) *HIT enrollment standards and protocols.* The Exchange must incorporate interoperable and secure standards and protocols developed by the Secretary in accordance with section 3021 of the PHS Act. Such standards and protocols must be incorporated within Exchange information technology systems.

Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

§ 155.300 Definitions and general standards for eligibility determinations.

(a) *Definitions.* In addition to those definitions in § 155.20, for purposes of this subpart, the following terms have the following meaning:

Adoption taxpayer identification number has the same meaning as it does in 26 CFR 301.6109–3(a).

Applicable Children’s Health Insurance Program (CHIP) MAGI-based income standard means the applicable income standard as defined at 42 CFR 457.310(b)(1), as applied under the State plan adopted in accordance with title XXI of the Act, or waiver of such plan and as certified by the State CHIP Agency in accordance with 42 CFR 457.348(d), for determining eligibility for child health assistance and enrollment in a separate child health program.

Applicable Medicaid modified adjusted gross income (MAGI)-based income standard has the same meaning as “applicable modified adjusted gross income standard,” as defined at 42 CFR 435.911(b), as applied under the State plan adopted in accordance with title XIX of the Act, or waiver of such plan, and as certified by the State Medicaid